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State of Idaho

Legislative Services Office

## Management Report

A communication to the Joint Finance-Appropriations Committee

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# IDAHO DIVISION OF BUILDING SAFETY

FY 2008, 2009, AND 2010

Report MR45010  
Date Issued: January 30, 2012

*Serving Idaho's Citizen Legislature*



Idaho Legislative Services Office  
Legislative Audits Division

Don H. Berg, Manager

## IDAHO DIVISION OF BUILDING SAFETY

### SUMMARY

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We conducted a management review of the Idaho Division of Building Safety covering the fiscal years ended June 30, 2008, 2009, and 2010. Our review covered general administrative procedures and accounting controls to determine that activities are properly recorded and reported.

The intent of this review was not to express an opinion, but to provide general assurance on internal controls and to raise the awareness of management and others of any conditions and control weaknesses that may exist and offer recommendations for improvement.

#### CONCLUSION

We identified one significant condition or weakness in the general administrative and accounting controls of the Division. We also identified two issues regarding fines and employee evaluations.

#### FINDINGS AND RECOMMENDATIONS

There are three findings and recommendations in this report.

**Finding 1 – Fines are adjusted or waived without proper documentation or authorization by the respective boards as required by Idaho Code.**

**Finding 2 – Employee evaluations are not completed annually as required.**

**Finding 3 – The suspense account has not been reconciled for at least three years.**

The complete findings are detailed on pages 1 through 3 of this report.

#### AGENCY RESPONSE

The Division has reviewed the report and is in general agreement with its contents.

#### PRIOR FINDINGS AND RECOMMENDATIONS

The prior report contained one finding and recommendation which was evaluated as part of the current review and is satisfactorily closed.

## FINANCIAL INFORMATION

The following financial data is for informational purposes only.

### IDAHO DIVISION OF BUILDING SAFETY – FINANCIAL SUMMARY FY 2010

Fund			July 1, 2009	Receipts	Disbursements	June 30, 2010
Fund	Detail	Description	Beginning Cash	and Transfers In	and Transfers Out	Ending Cash
229	1	Electrical Board Fund	\$1,683,148	\$3,154,746	\$3,559,371	\$1,278,523
229	2	Idaho Building Code Fund	1,614,449	642,705	844,099	1,413,055
229	3	Idaho Plumbing Board Fund	3,361,580	1,463,587	2,304,611	2,520,556
229	4	Manufactured Housing Account	36,533	50,225	37,540	49,218
229	7	Public Works Contractors License	1,299,427	805,855	655,093	1,450,189
229	8	Idaho HVAC Board Fund	533,747	1,092,971	1,073,330	553,388
229	14	Idaho Elevator Safety	936,879	491,963	607,582	821,260
229	17	Modular Building Account	647,266	310,684	249,599	708,351
348	0	Federal Fund (Grant)	21,828	46,771	21,695	46,904
349	10	DBS - Industrial	169,521	413,360	417,669	165,212
349	11	DBS - Logging	96,211	376,198	356,783	115,626
349	15	DBS - Building Bureau NCSBCS	20,873	0	20,873	0
349	17	Energy Code Program Fund	9,579	0	9,579	0
Total			<u>\$10,431,041</u>	<u>\$8,849,065</u>	<u>\$10,157,824</u>	<u>\$9,122,282</u>

## OTHER INFORMATION

We discussed other issues which, if addressed, would improve internal control, compliance, and efficiency.

This report is intended solely for the information and use of the State of Idaho and the Idaho Division of Building Safety and is not intended to be used by anyone other than these specified parties.

We appreciate the cooperation and assistance given to us by the administrator, Kelly Pearce, and his staff.

## ASSIGNED STAFF

Lori Hendon, CPA, Managing Auditor

Liz Yturalde, CPA, CGFM, In-Charge Auditor

Brinton Croff, CPA, Staff Auditor

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# FINDINGS AND RECOMMENDATIONS

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## FINDING 1

Fines are adjusted or waived without proper documentation or authorization by the respective boards as required by Idaho Code.

Idaho Code establishes the authority with each respective board to affirm, reject, decrease, or increase fines assessed by the inspectors of each Bureau. For example, Idaho Code, Section 54-1006(5) establishes this authority with the Electrical Board and states that in no case shall the fine exceed \$1,000 for each offense.

The process for assessing a fine begins with a "Notice of Violation" (NOV) issued by the inspector to the contractor. The nature of the violation is identified and tracked in the Division's "TrakIt" system, which is used to track the disposition of each violation and capture the evidence and field notes of the inspector. The information is then used to issue the fine and send a billing to the installer or contractor.

During fiscal year 2010, a total of 354 NOV's were issued by all bureaus; however the fines established in Administrative Rules for each violation type were not consistently assessed or were for unsupported amounts with no evidence. For example, a violation of IDAPA rule 07.01.11.011.07 "Fees and Permits" is subject to a fine of not more than \$200 for the first offense and not more than \$1,000 for each offense thereafter. We identified fines for a first offense that exceeded the \$200 limit and others that were waived with no evidence to support the reason for waiving the fine or increasing the amount beyond the limit allowed by rule.

Reinspection fees are also not consistently assessed or documented when the fee is waived. A "Notice of Change" is issued by the inspector, which requires the building contractor to correct a deficiency and request a reinspection. The first re-inspection is provided at no additional cost, but subsequent re-inspections require a fee of \$65. We noted several instances where re-inspection fees were not assessed as required, and no evidence was available to support the reason for the waiver.

We also noted that a supervisor in one bureau was reviewing and adjusting fines in another bureau during a two-month period, but lacked the necessary education and experience related to the program to properly determine the nature or severity of the violation and whether the fine was appropriate.

## RECOMMENDATION

**We recommend that the Division follow the requirements of Idaho Code and administrative rule by assessing and collecting fees and fines as authorized.**

### AGENCY'S CORRECTIVE ACTION PLAN

The Division will formalize changes to its procedures to ensure proper documentation of modification to fees or civil penalties.

When additional information is provided by the Division's inspector or by the permit holder, which makes a fee for re-inspection unnecessary, proper documentation will be included in the TrakIt system records. Modification or elimination of any other fees requires the approval of

the administrator or one of the deputy administrators and such approval will be documented.

When an inspector for the Division issues a Notice of Violation (NOV), the process will include a review by the inspector's regional manager. If the NOV is modified by the regional manager, proper documentation will be included in the records. If the NOV is approved by the regional manager, it will be forwarded to the trade specific program manager for review.

If the program manager decides there is need to modify the original NOV, documentation will be included in the records. When the program manager has determined enough documentation available to proceed with a case, the program manager will set the amount of the civil penalty for the associated NOV. The amount of the civil penalty will be based on the history of the offending party, on Idaho Code, and on IDAPA rules.

Once the civil penalty is established, no party, other than the administrator or the deputy administrator-operations is authorized to modify or waive civil penalties. If civil penalties are modified, complete explanations for the modification or waiver will be entered into the case record within TrakIt for documentation.

## **FINDING 2**

Employee evaluations are not completed annually as required.

Idaho Code, Section 67-5309 requires that all classified employees be evaluated after 1,040 hours of credited State service from the date of initial appointment or promotion and after each 2,080 hours of credited State service thereafter. Part-time employees must be evaluated on an annual basis.

We noted that employee evaluations were not completed as required, with 58 evaluations more than a year old, 17 of which were over two years old. We also noted that 40 formal and informal investigations of employee misconduct were completed by the HR manager during the three-year review period, five of which were referred to outside investigators due to the severity and nature of the issues. This is a significant quantity given the number of classified positions at the Division and could be a consequence of the delays in completing employee evaluations.

## **RECOMMENDATION**

**We recommend that the Division complete performance evaluations as required by Idaho Code.**

### **AGENCY'S CORRECTIVE ACTION PLAN**

The Division of Building Safety has modified its processes to address this finding.

The Division has conducted performance management training for supervisors last month [December] and will hold one more session during the next three months.

The performance evaluation status will be a standing item on the bi-weekly management meeting agenda. Weekly reminders will also be sent to the supervisors with overdue evaluations of employees. Any evaluations overdue by one month will receive a reminder e-mail with a follow up phone call by the deputy administrator-administration.

The purpose of the phone call from the deputy administrator will be two-fold. The first purpose will be to discuss the importance of completing evaluations on a timely basis, and the second will be to set a deadline for completing an overdue evaluation.

### **FINDING 3**

The suspense account has not been reconciled for at least three years.

The Division uses a suspense account to record deposits until they are identified and reclassified to one of eight statutory funds, four miscellaneous funds, or a federal grant fund. The balance in the suspense account should be identified and reconciled to a zero balance periodically to ensure that amounts are promptly and accurately reclassified.

The suspense account balance has not been properly identified or reconciled for at least three years. The balance at June 2011 was \$141,972, of which about \$70,000 is not fully identified and continues to grow. The Division purchased the internal accounting system about three years ago, however, limitations over the suspense account reconciliation process exist which have not yet been addressed by the contractor that installed the system.

As a result, the Division cannot ensure that all funds received have been properly recorded which could result in unnecessary efforts in licensing and enforcement programs that rely on the financial data.

### **RECOMMENDATION**

**We recommend that the Division develop procedures to reconcile the suspense account to ensure that all funds are properly accounted for and deposited.**

#### **AGENCY'S CORRECTIVE ACTION PLAN**

The Division of Building Safety recognizes this is an issue and has begun steps to correct the problems.

The Division has modified procedures and created reports within the TrakIt system to help identify any issues. The Division has begun the process of identifying any funds in the suspense account which may not be properly recorded in the system. After researching these records, the records are being processed in the system to ensure they are properly accounted for. When this process is completed, the Division will be able to reconcile the TrakIt system to the suspense account and will do so monthly.

## AGENCY RESPONSE

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State of Idaho  
**DIVISION OF BUILDING SAFETY**

*Building a Safer Idaho*

C.L. "BUTCH" OTTER  
Governor

C. Kelly Pearce  
Administrator

1090 East Watertower Street  
Meridian, Idaho 83642  
208-334-3950  
dbs.idaho.gov

January 17, 2012

Mr. Don H. Berg, CGFM  
Manager, Legislative Audits Division  
Legislative Services Office  
Statehouse Mail  
Boise Idaho

Dear Mr. Berg:

I am in receipt of the Management Report on Internal Controls for the Division of Building Safety. I would like to thank your staff for their professionalism while reviewing the internal controls of the Division of Building Safety.

Included below is our response to the audit findings. If you have any questions on any of our responses, please contact Janice Foster, Deputy Administrator, at 332-7108.

**Finding 1** – Fines are adjusted or waived without proper documentation or authorization by the respective boards as required by Idaho Code.

**Recommendation** – We recommend that the Division follow the requirements of Idaho Code and administrative rule by assessing and collecting fees and fines as authorized.

**Corrective Action Plan** – The Division will formalize changes to its procedures to ensure proper documentation of modification to fees or civil penalties.

When additional information is provided by the Division's inspector or by the permit holder, which makes a fee for re-inspection unnecessary, proper documentation will be included in the TrakIt system records. Modification or elimination of any other fees requires the approval of the administrator or one of the deputy administrators and such approval will be documented.

When an inspector for the Division issues a Notice of Violation (NOV), the process will include a review by the inspector's regional manager. If the NOV is modified by the regional manager, proper documentation will be included in the records. If the NOV is approved by the regional manager, it will be forwarded to the trade specific program manager for review.

If the program manager decides there is a need to modify the original NOV, documentation will be included in the records. When the program manager has determined enough documentation available to proceed with a case, the program manager will set the amount of the civil penalty for the associated NOV. The amount of the civil penalty will be based on the history of the offending party, on Idaho Code, and on IDAPA rules.

Mr. Don H. Berg, CGFM  
Manager, Legislative Audits Division  
January 17, 2012

Once the civil penalty is established, no party, other than the administrator or the deputy administrator-operations is authorized to modify or waive civil penalties. If civil penalties are modified, complete explanations for the modification or waiver will be entered into the case record within TrakIt for documentation.

**Finding 2** – Employee evaluations are not completed annually as required.

**Recommendation** – We recommend that the Division complete performance evaluations as required by Idaho Code.

**Corrective Action Plan** – The Division of Building Safety has modified its processes to address this finding.

The Division has conducted performance management training for supervisors last month and will hold one more session during the next three months.

The performance evaluation status will be a standing item on the bi-weekly management meeting agenda. Weekly reminders will also be sent to supervisors with overdue evaluations of employees. Any evaluations overdue by one month will receive a reminder e-mail with a follow up phone call by the deputy administrator-administration.

The purpose of the phone call from the deputy administrator will be two-fold. The first purpose will be to discuss the importance of completing evaluations on a timely basis and the second will be to set a deadline for completing an overdue evaluation.

**Finding 3** – The suspense account has not been reconciled for at least three years.

**Recommendation** – We recommend that the Division develop procedures to reconcile the suspense account to ensure that all funds are properly accounted for and deposited.

**Corrective Action Plan** – The Division of Building Safety recognizes this is an issue and has begun steps to correct the problems.

The Division has modified procedures and created reports within the TrakIt system to help identify any issues. The Division has begun the process of identifying any funds in the suspense account which may not be properly recorded in the system. After researching these records, the records are being processed in the system to ensure they are properly accounted for. When this process is completed, the Division will be able to reconcile the TrakIt system to the suspense account and will do so monthly.

It is a pleasure to work with your staff and we appreciate your assistance.

Sincerely,



C. KELLY PEARCE  
Administrator  
Division of Building Safety

# APPENDIX

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## HISTORY

The Division of Building Safety derives its authority from the Idaho State Constitution. In 1899, the Bureau of Immigration Labor and Statistics was established to comply with Section 1, Article 13, of the Idaho Constitution. A commission was appointed by the Governor to direct the Bureau in its primary responsibility of collecting information about labor in Idaho. This Bureau was eliminated in 1919. In 1949, an act was passed creating the Department of Labor. In 1955, the Minimum Wage and Wage Payment Laws were passed.

The Department of Labor and Industrial Services, created as one of 20 executive agencies under the Reorganization Act of 1974, was set up to combine the activities of all agencies responsible for public safety. At that time, five separate agencies were performing those functions: the Department of Labor, the Mine Inspector, the Idaho State Electrical Board, the Idaho State Plumbing Board, and the Mobile Home and Recreational Vehicle and Manufactured Housing Division of the Department of Law Enforcement. The legislature eliminated the Bureau of Mines on July 1, 1979, and removed the Department's responsibility for mine safety on July 1, 1980. A logging safety program has been added to promote logging safety and perform safety inspections.

The legislature created the Idaho State Electrical Board in 1947 in response to industry concerns about the lack of regulations and safety in electrical installations statewide. This legislation provided that anyone working as an electrical contractor or journeyman must receive a certificate of competency. The act was amended in 1955 to require inspections to ensure that electrical installations in Idaho were made in accordance with the National Electrical Code. In 1986 an apprenticeship program was enacted.

The Idaho State Plumbing Board was created by the legislature in 1957. This act required both the licensing of plumbers and the inspection of plumbing systems to ensure compliance with the National Plumbing Code of the American Standards Association.

The Mobile Home and Recreational Vehicle Act required that mobile homes and recreational vehicles be built according to reasonable safety standards, and that each unit be inspected and approved before it could be offered for sale in Idaho. A 1972 amendment to this act required structural inspections to be conducted, and the 1975 Idaho Building Code Advisory Act required all new construction be inspected for compliance with several building codes. In 1977, the act was amended to provide that the adoption of and inspection and enforcement of the Uniform Building Code Advisory Act be optional with county and city governments. The Idaho Manufactured Home Licensing and Bonding program was created by a law passed during the 1988 legislative session that requires all manufactured home professionals be licensed and bonded. This program also included a statewide minimum installation standard and provided consumer protection. A 1990 act created the Idaho Residential Energy Standard, requiring self-certification for residential single-family dwellings.

In 1996, the Idaho Legislature moved the Wage and Hour program from the Department of Labor and Industrial Services and renamed the program the Division of Building Safety, effective July 1, 1996.

Effective July 1, 2000, the Public Works Contractors License Board was combined with the Division of Building Safety.

Executive Order #2001-06, signed by the Governor in fiscal year 2001, moved the Energy Codes and Standards program from the Department of Water Resources to the Division of Building Safety.

Effective April 14, 2004, the Heating, Ventilation, and Air Conditioning (HVAC) Board was established within the Division of Building Safety. The HVAC program was established to ensure that installation of HVAC systems is in accordance with industry codes and standards and that the installers are licensed.

On July 1, 2004, the Elevator Safety Code Act became effective. This act established a self-funded elevator inspection program administered by the Division of Building Safety. Previously, the program was administered by the Division but funded by the Industrial Commission.

#### **STATUTORY AUTHORITY**

The statutory authority for the Division of Building Safety is set forth in Idaho Code, Section 67-2601(d).

#### **PURPOSE**

The purpose of the Division is to provide for the health and safety of the public with regard to compliance with building safety code requirements, licensing of public works contractors, and to provide information and services to all Idaho citizens in an efficient and effective manner.

#### **ORGANIZATION**

The Division is organized into a variety of safety program areas including, Industrial Safety, Elevators, Building, Heating, Ventilation and Air Conditioning (HVAC), Electrical, Plumbing, Logging, Public Works, and an administration section. The administration section provides administrative, financial, human resources, information technology, and legal services to all of the Division's program staff.

The building safety program includes:

- *Electrical and the Plumbing program* – Licenses electricians and plumbers, issues permits, approves plans, and conducts code compliance inspections.
- *Building Safety program* – Checks plans, makes in-plant inspections of manufactured homes and prefabricated structures, conducts HUD dealer lot manufactured home inspections, and investigates consumer complaints.
- *Industrial and Logging Safety programs* – Inspects state, school district, county and city facilities to ensure safe working conditions; manages statewide elevator safety program; and provides first aid and safety training for loggers, logging contractors, and supervisors.
- *Public Works Licensing program* – Licenses contractors, subcontractors, and construction managers for public works construction.

The Division of Building Safety supports seven boards appointed by the Governor. They are:

- The *Idaho Electrical Board* consists of nine members appointed to four-year terms and represents all facets of the electrical industry. The board establishes the fees for permits and advises the administrator on policies. (Chapter 10, Title 54, Idaho Code)

- The *Idaho Plumbing Board* consists of five members from the plumbing industry appointed to three-year terms. The board advises the administrator about the rules and regulations necessary to carry out the provisions of the plumbing code and sets permit fees. (Chapter 26, Title 54, Idaho Code)
- The *Idaho Building Code Board* consists of ten members appointed to four-year terms. The board advises the administrator on matters involving building codes and acts as an appeals board to interpret those codes.
- The *Manufactured Home Advisory Board* consists of five members serving three-year terms. It was established as a complaint-and-appeals board and to advise the administrator on all laws and rules pertaining to the licensing and set-up procedures for manufactured homes. (Chapter 21, Title 44, Idaho Code)
- The *Public Works Contractors License Board* consists of seven members serving three-year terms, for up to two terms. The board advises the administrator about the rules and regulations necessary to carry out the provisions of the Public Works Contractors License Code. (Chapter 50, Title 54, Idaho Code)
- The *HVAC Board* consists of seven members serving three-year terms. The board advises the administrator about the rules and regulations necessary to carry out the provisions of the HVAC Code and sets permit fees. (Chapter 50, Title 54, Idaho Code)
- The *Logging Safety Program* was created by the 1987 legislature to work toward reducing the frequency and severity of accidents in an industry where very little control over the work environment exists. This program provides first aid and safety training to logging contractors and sawmill operators, as well as offering specialized on-the-job training upon request.
- The *Modular Building Advisory Board* consists of five members serving three-year terms. This board provides guidance to the Administrator about the rules and regulations and Interstate Agreements involving the manufacture and Location of Modular Structures (Chapter 43, Title 39, Idaho Code).

## FUNDING

Electrical Board Fund (0229-01) – This fund receives fees for electrical inspections, permits, and licenses. It is used to ensure safe installation and use of electricity and to ensure that installations are performed by properly licensed businesses and individuals.

Building Fund (0229-02) – This fund receives fees for inspections, plan reviews, and certifications. The fund is used to ensure that manufactured homes, modular prefabricated structures, and site-built structures are constructed in accordance with either federally-adopted or Idaho-adopted construction and safety standards. This fund is also used to administer the asbestos industry accreditation program. Funds are also received to provide support to contractors and provide training in regards to the 2009 energy codes.

Plumbing Board Fund (0229-03) – This fund receives fees for plumbing inspections, permits, and licenses. It is used to ensure correct installation and work on plumbing fixtures and to ensure that installations are performed by properly licensed businesses and individuals.

Manufactured Housing Fund (0229-04) – This fund receives fees for manufactured housing licenses issued to manufacturers, dealers, sales representatives, brokers, and service companies for manufactured homes.

Public Works Contractors License Fund (0229-07) – This fund receives fees from licensing public works contractors, builders, subcontractors, specialty contractors, and construction managers. It is used to administer and enforce the provisions of the Public Works Contractors License Act.

Heating, Ventilation, and Air Conditioning Fund (0229-08) – This fund receives fees from HVAC inspections, permits, and licenses. It is used to ensure correct installation and work on HVAC fixtures and to ensure that installations are performed by properly licensed businesses and individuals.

Elevator Safety Code Act Fund (0229-14) – This fund receives fees from elevator registration, inspections, and renewal fees. It is used to ensure that elevators are installed and maintained to code through a five-year periodic inspection program.

Modular Building Account (0229-17) – This fund receives fees for building permits, plan reviews, insignias and inspection fees for structural, plumbing, electrical, HVAC for Modular buildings.

Federal Fund (0348) – This fund receives federal money from the Department of Housing and Urban Development (HUD) to monitor and ensure that manufactured homebuilders and dealers are in compliance with HUD enforcement standards. This program also investigates consumer complaints.

Miscellaneous Revenue Fund 0349 – This fund receives money from the Idaho Industrial Commission for safety inspections of State, school district, city, and county facilities to ensure safe working conditions and to provide safety training to logging industry personnel to help reduce accidents.

# DIVISION OF BUILDING SAFETY

